

AMENDED IN SENATE AUGUST 18, 2010

AMENDED IN ASSEMBLY APRIL 7, 2010

AMENDED IN ASSEMBLY MARCH 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1736

Introduced by Assembly Members Ma and Tom Berryhill

February 4, 2010

An act to amend Sections 8522, 8525, 8536, 8698, 8698.1, and 8698.6 of the Business and Professions Code, relating to ~~structural fumigation~~ *Department of Pesticide Regulation*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1736, as amended, Ma. *Department of Pesticide Regulation: Structural Pest Control Board: Structural Fumigation Enforcement Program*.

(1) *Existing law provides for the licensure and regulation of structural pest control operators by the Structural Pest Control Board within the Department of Pesticide Regulation.*

Under existing law, the board consists of 7 members, with appointments by, among others, the Governor. Under existing law, each board member holds office until the appointment and qualification of his or her successor or until one year after the expiration of the term for which he or she was appointed, whichever first occurs. Existing law provides that each appointment is for a 4-year term expiring June 1 of the 4th year following the year in which the previous term expires, or with respect to licensee members, the 4-year term expires on January 15th.

This bill would specify that the Governor appoints the 3 licensed members. Under the bill, each member would hold office until the appointment of his or her successor, not to exceed one year from the expiration of the term for which he or she was appointed, and each appointment would be for a 4-year term expiring after either the date of the appointment or the date a previous term expired.

With respect to the Governor's appointments, the bill would require the Governor to appoint members based on nominations received by the Director of Pesticide Regulation soliciting nominations from specified interested parties. The bill would require the director to solicit these nominations by mailing interested parties a notice as well as by posting a notice on the department's Internet Web site. The bill would require these nominations to be in writing and would require them to contain certain information and to be mailed to the director and be made available to the Governor and the director.

Existing law prohibits a manufacturer, his or her agents or employees, or any person who is a consultant of or connected with any manufacturer, from being charged with the enforcement or execution of any of the structural pest control operator provisions.

This bill would prohibit such a manufacturer from being appointed to the board.

Existing law requires the board to consult with the department when developing or adopting regulations that may affect the department or the county agricultural commissioner's specified responsibilities.

This bill would delete that provision.

~~Until~~

(2) Until January 1, 2011, existing law authorizes the Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner to contract with the Director of the Department of Pesticide Regulation to perform increased structural fumigation, inspection, and enforcement activities in Los Angeles County, Orange County, Santa Clara County, and San Diego County. Existing law requires any person who performs a structural fumigation in any of the contracting counties to pay a specified fee to the county agricultural commissioner.

This bill would instead ~~require~~ authorize the Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner to perform those

services, and would require the director to provide oversight. ~~The bill would also extend the operation of these provisions to January 1, 2014. By imposing new duties on those county commissioners, the bill would impose a state-mandated local program.~~

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8522 of the Business and Professions
2 Code is amended to read:
3 8522. (a) Members of the board shall be appointed for a term
4 of four years, subject to removal by the appointing power at his
5 or her pleasure.
6 ~~Vacancies~~
7 (b) ~~Vacancies~~ shall be filled by the appointing power for the
8 unexpired term.
9 ~~Each~~
10 (c) ~~Each~~ member shall hold office until the appointment ~~and~~
11 ~~qualification~~ of his or her successor ~~or until one year shall have~~
12 ~~elapsed since~~ *not to exceed one year from the expiration of the*
13 term for which he or she was appointed, ~~whichever first occurs.~~
14 No person shall serve as a member of the board for more than two
15 consecutive terms.
16 ~~Each~~
17 (d) ~~Each~~ appointment shall be for a four-year term expiring
18 ~~June 1 of the fourth year following the year in which the previous~~
19 ~~term expires~~ *four years after either the date of the appointment or*
20 *the date a previous term expired.*
21 ~~The~~
22 (e) *From the nominations received pursuant to subdivision (f),*
23 the Governor shall appoint two of the public members and the ~~two~~
24 *three* licensed members qualified as provided in Section 8521. The
25 Senate ~~Rules~~ Committee *on Rules* and the Speaker of the Assembly
26 shall each appoint a public member, and their initial appointment
27 shall be made to fill, respectively, the first and second public
28 member vacancies ~~which~~ *that* occur on or after January 1, 1983.

1 ~~The Governor shall appoint the member who is a licentiate of~~
2 ~~the board provided at the 1983 portion of the 1983-84 Regular~~
3 ~~Session of the Legislature on or before January 15, 1984, and that~~
4 ~~member's term shall expire on January 15, 1988. Each appointment~~
5 ~~thereafter shall be for a four-year term expiring on January 15th.~~

6 (f) (1) *At least 60 days prior to the appointment by the Governor*
7 *of a public member or licensed member to the board, the director*
8 *shall solicit nominations to the board from interested parties by*
9 *mailing them a notice and by posting a notice on the department's*
10 *Internet Web site. Interested parties include, but are not limited*
11 *to, members or representatives from the structural pest control*
12 *industry and organizations representing consumer, environmental,*
13 *and real estate interests.*

14 (2) *All nominations shall be made in writing and shall include*
15 *(A) the name and address of each nominee, (B) if an operator, his*
16 *or her license number, and (C) the name, address, and affiliation,*
17 *if any, of the nominator.*

18 (3) *The nominations shall be mailed to the director and shall*
19 *be made available to the Governor and the director.*

20 SEC. 2. *Section 8525 of the Business and Professions Code is*
21 *amended to read:*

22 8525. The board, subject to the approval of the director, may,
23 in accordance with Chapter 3.5 (commencing with Section 11340)
24 of Part 1 of Division 3 of Title 2 of the Government Code, adopt,
25 amend, repeal, and enforce reasonably necessary rules and
26 regulations relating to the practice of pest control and its various
27 branches as established by Section 8560 and the administration of
28 this chapter.

29 ~~The board shall also consult with the Department of Pesticide~~
30 ~~Regulation when developing or adopting regulations that may~~
31 ~~affect the Department of Pesticide Regulation or the county~~
32 ~~agricultural commissioner's responsibilities pursuant to Division~~
33 ~~7 (commencing with Section 12501) of the Food and Agricultural~~
34 ~~Code.~~

35 SEC. 3. *Section 8536 of the Business and Professions Code is*
36 *amended to read:*

37 8536. No manufacturer, his or her agents or employees, nor
38 any person who is a consultant of or connected with any
39 manufacturer, shall be ~~charged with the enforcement or execution~~
40 ~~of any of the provisions of this chapter~~ *appointed to the board.*

1 ~~SECTION 1.~~

2 ~~SEC. 4.~~ Section 8698 of the Business and Professions Code is
3 amended to read:

4 8698. The Director of the Department of Pesticide Regulation
5 shall provide oversight for the purposes of carrying out Section
6 8698.1. The Los Angeles County Agricultural Commissioner, the
7 Orange County Agricultural Commissioner, the Santa Clara County
8 Agricultural Commissioner, and the San Diego County Agricultural
9 Commissioner ~~shall~~ *may* perform increased structural fumigation,
10 inspection, and enforcement ~~activities, funded by the moneys~~
11 ~~collected pursuant to this chapter.~~ *activities, to be funded by the*
12 *five dollar (\$5) fee collected pursuant to Section 8698.1.*

13 ~~SEC. 2.~~

14 ~~SEC. 5.~~ Section 8698.1 of the Business and Professions Code
15 is amended to read:

16 8698.1. (a) Any person who performs a structural fumigation
17 in Los Angeles County, Orange County, Santa Clara County, or
18 San Diego County shall pay to the county agricultural
19 commissioner a fee of five dollars (\$5) for each treatment
20 conducted at a specific building or structure.

21 (b) The fees shall be submitted by the 10th day of the month
22 following the month in which the treatment was performed. The
23 fees shall be accompanied by a copy of a monthly pesticide use
24 report showing the addresses, including the department number if
25 applicable, of all structural fumigations. The report shall be in a
26 form required by the director, shall identify the name and address
27 of the person or company performing the fumigation, and shall
28 include any other information requested by the director.

29 ~~SEC. 3.~~

30 ~~SEC. 6.~~ Section 8698.6 of the Business and Professions Code
31 is amended to read:

32 8698.6. This chapter shall remain in effect only until January
33 1, 2014, and as of that date is repealed, unless a later enacted
34 statute, which is chaptered before January 1, 2014, deletes or
35 extends that date.

36 ~~SEC. 4.~~ ~~No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~a local agency or school district has the authority to levy service~~
39 ~~charges, fees, or assessments sufficient to pay for the program or~~

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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